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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,326	09/25/2001	Arie Cornelis Besemer	019219-013	9428
21839 7590 07/27/2007 BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			EXAMINER ANDERSON, CATHARINE L	
			ART UNIT 3761	PAPER NUMBER
			MAIL DATE 07/27/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/937,326

Applicant(s)

BESEMER ET AL.

Examiner

C. Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-5 and 8-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4,5,9,10,13-17 and 21 is/are rejected.
- 7) ☒ Claim(s) 2,3,8,11,12,18-20,22 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 4 May 2007 have been considered but are moot in view of the new ground(s) of rejection.

In response to the applicant's argument that the cellulose acetate of Bewick-Sonntag is not for odor control purposes, it is noted that the present claims require superabsorbent material with odor control but do not claim the odor control is provided by the non-acidic compound.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bewick-Sonntag et al. (6,417,424).

Bewick-Sonntag discloses all aspects of the claimed invention with the exception of the amount of non-acidic compound present with respect to the weight of the superabsorbent. Bewick-Sonntag discloses a hygiene article, such as a diaper, in column 5, line 1. The hygiene article comprises a superabsorbent material, as disclosed in column 7, lines 57-60, and carrier material comprising a non-acidic compound in the form of cellulose acetate, as disclosed in column 8, lines 24-25. The article further comprises odor control, as disclosed in column 5, lines 20-24. The non-

acidic compound is homogenously divided into two tissue layers located above and below the superabsorbent material, as disclosed in column 15, lines 56-57.

Bewick-Sonntag discloses in column 15, Examples 2 and 3, a carrier having a basis weight and thickness that is small relative to the superabsorbent material. Therefore, the absorbent structure of Bewick-Sonntag comprises a small amount of cellulose acetate relative to the superabsorbent material. It would therefore be obvious to one of ordinary skill in the art at the time of invention the non-acidic compound is present in an amount of 1-20% with respect to the weight of the superabsorbent, since Bewick-Sonntag teaches the desire to have a small amount of the non-acidic compound relative to the amount of superabsorbent.

Claims 4-5 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bewick-Sonntag et al. (6,417,424) in view of Neal et al. (5,372,739).

Bewick-Sonntag discloses all aspects of the claimed invention with the exception of the non-acidic compound being starch acetate, and the amount of non-acidic compound present with respect to the weight of the superabsorbent. Bewick-Sonntag discloses a superabsorbent polymer, as disclosed in column 7, lines 57-60, and a non-acidic compound in the form of cellulose acetate, as disclosed in column 8, lines 24-25. Neal teaches the functional equivalence of starch acetate and cellulose acetate in absorbent materials, as disclosed in column 11, lines 30-50. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide starch

acetate in place of cellulose acetate in the article of Bewick-Sonntag, since Neal teaches the functional equivalence of the two materials for use in absorbent materials.

Bewick-Sonntag discloses in column 15, Examples 2 and 3, a carrier having a basis weight and thickness that is small relative to the superabsorbent material. Therefore, the absorbent structure of Bewick-Sonntag comprises a small amount of cellulose acetate relative to the superabsorbent material. It would therefore be obvious to one of ordinary skill in the art at the time of invention the non-acidic compound is present in an amount of 1-20% with respect to the weight of the superabsorbent, since Bewick-Sonntag teaches the desire to have a small amount of the non-acidic compound relative to the amount of superabsorbent.

Claims 9-10, 15-16, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bewick-Sonntag et al. (6,417,424) in view of Morie et al. (4,145,518).

Bewick-Sonntag discloses all aspects of the claimed invention with the exception of the non-acidic compound being a lactone, and the amount of non-acidic compound present with respect to the weight of the superabsorbent. Bewick-Sonntag discloses a superabsorbent polymer, as disclosed in column 7, lines 57-60, and a non-acidic compound in the form of cellulose acetate, as disclosed in column 8, lines 24-25. Morie teaches the functional equivalence of lactones and cellulose acetate in absorbent materials, as disclosed in column 2, lines 36-66. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide a lactone in place of cellulose

acetate in the article of Bewick-Sonntag, since Morie teaches the functional equivalence of the two materials for use in absorbent materials.

Bewick-Sonntag discloses in column 15, Examples 2 and 3, a carrier having a basis weight and thickness that is small relative to the superabsorbent material. Therefore, the absorbent structure of Bewick-Sonntag comprises a small amount of cellulose acetate relative to the superabsorbent material. It would therefore be obvious to one of ordinary skill in the art at the time of invention the non-acidic compound is present in an amount of 1-20% with respect to the weight of the superabsorbent, since Bewick-Sonntag teaches the desire to have a small amount of the non-acidic compound relative to the amount of superabsorbent.

***Allowable Subject Matter***

Claims 2, 3, 8, 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to disclose the claimed invention. Specifically, the closest prior art of record, U.S. Patents 6,534,572 to Ahmed and 6,417,424 to Bewick-Sonntag et al., fails to disclose a superabsorbent material comprising a non-acidic, cyclic lactide in combination with the superabsorbent material. The superabsorbent composition of Ahmed comprises a polylactide, and during the polymerization process the ring of the lactide monomers is opened to form the polylactide. Therefore, the prior art of record does not teach nor fairly suggest the claimed invention.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*CWA*  
cla  
July 18, 2007

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER  
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